



DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 502

RIN 3141-AA43

Definition of Enforcement Action.

AGENCY: National Indian Gaming Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend NIGC regulations to include definitions for “enforcement action”. The Indian Gaming Regulatory Act authorizes the NIGC to take certain actions in regard to violations of the Act, NIGC regulations, and tribal gaming ordinances. However, current NIGC regulations do not provide a definition for such actions. The Commission believes that providing a definition for these actions will provide clarity to persons subject to them. Therefore, a definition of “enforcement action” is proposed in this notice.

DATES: The agency must receive comments on or before [INSERT A DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER, 2011.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

- Email comments to: reg.review@nigc.gov
- Mail comments to: National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, D.C. 20005.

- Hand deliver comments to: National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, D.C. 20005.
- Fax comments to: National Indian Gaming Commission at 202-632-0045.

FOR FURTHER INFORMATION CONTACT: National Indian Gaming Commission, 1441 L Street NW, Suite 9100 Washington, DC 20005. Telephone: 202-632-7009; email: reg.review@nigc.gov

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (“Commission”) and sets out a comprehensive framework for the regulation of gaming on Indian lands. The purposes of IGRA include providing a statutory basis for the operation of gaming by Indian Tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns

regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. § 2702.

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457. The Commission's regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. Part 573 was included in this regulatory review.

III. Development of the Proposed Rule

The Commission conducted a total of 10 tribal consultations as part of its review of Part 573. Tribal consultations were held in every region of the country and were attended by over 176 tribes and 463 tribal leaders or their representatives. In addition to tribal consultations, on June 28, 2011, the Commission requested public comment on a Preliminary Draft of amendments to Part 573. After considering the comments received from the public and through tribal consultations, the Commission realized that to supplement the amendments made to Part 573, a definition of "enforcement action" needed to be added to Part 502.

A. "Enforcement Action"

The current NIGC regulations do not provide a definition for “enforcement action.” The Commission believes that providing a definition for “enforcement action” will provide clarity to persons subject to enforcement actions by the NIGC.

Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). This rule does not have an annual effect on the economy of \$100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the proposed rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Commission has determined that the proposed rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This proposed rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and is therefore not subject to review by the Office of Management and Budget.

List of Subject in 25 CFR part 502.

Enforcement Actions.

For the reasons stated in the preamble, the National Indian Gaming Commission proposes to amend 15 CFR part 502 as follows:

1. The authority citation for part 502 is revised to read as follows:

Authority: 25 U.S.C. §§ 2706(b)(10); 2713.

2. Add § 502.24 to read as follows:

§ 502.24 Enforcement action

Enforcement action means any action taken by the Chair under 25 U.S.C. § 2713 against any person engaged in gaming, for a violation of any provision of IGRA, the regulations of this chapter, or tribal regulations, ordinances, or resolutions approved under 25 U.S.C. §§ 2710 or 2712 of IGRA, including, but not limited to, the following: a notice of violation; a civil fine assessment; or an order for temporary closure.

DATED: December _16_, 2011, Washington, DC.

Tracie L. Stevens,
Chairwoman

Steffani A. Cochran,
Vice-Chairwoman

Daniel J. Little,

Associate Commissioner

7565-02

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